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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,621	09/15/2000	Christine Andreis	2119-4203	9229

23906 7590 07/19/2002

E I DU PONT DE NEMOURS AND COMPANY
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4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

NGUYEN, KIMBERLY T

ART UNIT	PAPER NUMBER
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1774

8

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-8

Office Action Summary

Application N .

09/600,621

Applicant(s)

ANDREIS ET AL.

Examiner

Kimberly T. Nguyen

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This action is in response to the amendment submitted on May 8, 2002.

Acknowledgement is made of new claims 13-26.

Claim Objections

Due to Applicants' amendments, the objection to claims 1, 4-5, and 10 are withdrawn.

Claim Rejections - 35 USC § 112

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Due to Applicants' amendments, the previous rejections of claims 1-12 are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 1774

Claims 1-5, 7-11, 13-15, and 20-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Shetty et al., U.S. Pat. No. 5,837,359.

Shetty shows a film comprising at least one crystalline polyester coextruded layer of polyethylene terephthalate or polybutylene terephthalate and that only the outermost skin layers comprise titanium dioxide pigment (column 2, lines 12-15 and claim 1). Shetty shows that the layers comprise up to 12.5% of the pigment in the skin layers (column 3, lines 37-55). Shetty shows that the outermost skin layers are at least 5% of the total thickness of the film (ratio of thickness of 1 or more) (column 1, lines 59-67) and that the particles in the skin layers have a size of 2-15 μ m (column 2, lines 49-54).

Claim Rejections - 35 USC § 103

Due to Applicants' remarks, the previous rejection of claims 1-12 is withdrawn.

Claims 6 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shetty et al., U.S. Pat. No. 5,837,359.

Shetty is relied upon as above for claim 1. The experimental modification of prior art in order to optimize operation conditions (e.g. determine thicknesses and compositional proportions) fails to render claims patentable in the absence of unexpected results. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shetty et al., U.S. Pat. No. 5,837,359 in view of Utsumi et al., U.S. Pat. No. 5,510,192.

Shetty is relied upon as above for claims 1 and 11. Shetty does not show a step of using a master-batch as in instant claim 12. Utsumi shows a polyethylene naphthalate multilayered film comprising carbon black and titanium dioxide particles wherein a step of using a masterbatch is

Art Unit: 1774

performed (column 7, lines 13-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a masterbatch in Shetty because it is known in the art that polyester and pigments can make a masterbatch in order to make the multilayered film structure in an efficient manner.

Response to Arguments

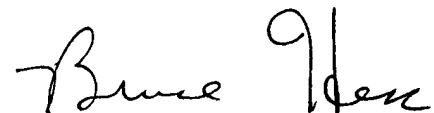
Applicants' argument filed May 8, 2002 have been fully considered but they are moot based on the new rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Nguyen whose telephone number is (703) 308-8176. The examiner can normally be reached on Monday to Friday, except on every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Bruce Hess". The signature is fluid and cursive, with the first name "Bruce" and last name "Hess" clearly distinguishable.

BRUCE H. HESS
PRIMARY EXAMINER